IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION Nos. 3462, 3463, 3464, 3465, 3466, 3469 and 3327 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MANSUKHBHAI RAMSING HATHILA

Versus

STATE OF GUJARAT

Appearance:

MR UM SHASTRI for Petitioner

MR RV DESAI, AGP for Respondent No. 1

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 04/05/2001

COMMON ORAL JUDGEMENT

#. These seven petitions involving common questions of law and fact, can be disposed of by a common judgment. There is a limit of accommodation to the counsel for the petitioner. On earlier three occasions, he was accommodated on personal grounds. Today, there is

neither sick note nor leave not nor he is present. It is going to be 2:35 p.m. As such, Shri RV Desai, learned AGP has been heard.

#. Averments made in the petitions and counter affidavit have been examined. In my opinion, these petitions deserve dismissal for the following reasons :

(i) In a similar group of Civil Application Nos.318, 319, 320, 321, 322, 323, 324, 325 and 326, judgment was rendered by me on 22-3-2001 and all those petitions were dismissed observing that the petitioners are not entitled to any relief. For the same reasons, these petitions also involving similar question of law, in fact, deserve dismissal because, these cases are covered by my judgment dated 22-3-2001.

(ii) In the earlier decisions, one of the grounds for dismissal was that the Forest Department is not an industry. The latest judgment of the Apex Court in a STATE OF GUJARAT & ORS. v. RATANSINGH NARSING PARMAR, Civil Appeal No.1684/1998 decided on 31-1-2001 clearly shows that the Apex Court has held that the Forest Department is not an industry. Judgment of the single Judge of this Court and Division Bench of this Court taking a contrary view was reversed by the Apex Court. The ratio of the Apex Court that Forest Department is not an industry applies with all force to the facts of this case. As such, if forest department is not an industry, the dispute raised by the daily wage workmen who were performing duties of watchman can not be said to have raised industrial dispute. If, there was no industrial dispute, the award rendered by the Tribunal becomes invalid.

(iii) The next reason for dismissing these petitions is that, the petitioners have not approached the alternative forum, rather, have approached this Court directly. If, equally efficacious alternative remedy was available to them, there is hardly any reason for this Court to allow these petitions under Art.226 or 227 of the Constitution of India.

#. For the aforesaid reasons, these petitions are dismissed. No order as to cost.

May 4, 2001. [D.C. Srivastava, J.]

/sakkaf